

## Statement of Considerations

REQUEST BY MERIDIAN AUTOMOTIVE SYSTEMS FOR AN ADVANCE WAIVER OF DOMESTIC AND FOREIGN RIGHTS IN SUBJECT INVENTIONS MADE IN THE COURSE OF OR UNDER A SUBTIER CONTRACT UNDER UT-BATTELLE, LLC SUBCONTRACT NO. 4000010928, UNDER DOE PRIME CONTRACT DE-AC05-00OR22725; DOE WAIVER DOCKET W(A)-2003-037; [ORO-780]

Meridian Automotive Systems, Inc. (Meridian) has made a request for an advance waiver to worldwide rights in Subject Inventions made in the course of or under a subcontract under UT-Battelle, LLC Subcontract No. 4000010928 with Volvo Trucks North America under Department of Energy (DOE) Contract DE-AC05-00OR22725. The scope of work of this project is for the utilization of Carbon Fiber Sheet Molding Compound (SMC) Materials for Class 8 truck hood structures. It is expected that this system will result in an approximately 40-60% weight reduction from the SMC components in a traditional SMC Class 8 Hood System. This work is sponsored by the Office of Heavy Vehicle Technologies.

The dollar amount of the subcontract effort has an estimated value of \$1,047,588 with Meridian cost sharing \$523,794 or about 50%. The period of performance is from August 2003 through January 2006.

It is expected that Meridian's experience and market position will contribute substantially to commercialization of the inventions made under the subcontract. Meridian has been in the business of composite parts production and SMC compounding for over 20 years. Meridian currently compounds approximately 105 million pounds of SMC annually. Meridian has been recognized by the Society of Plastics Engineers by winning two awards for the prestigious Most Innovative Use of Plastics Awards in the Materials (2002) and the Chassis/Structural (2002) categories for in production carbon fiber SMC applications.

In addition, Meridian has been in development in the automotive field since 1998. The resulting development work with General Motors (GM) has earned a current job in which Meridian is supplying parts to GM for a current production vehicle on a specialty basis. Meridian is also supplying parts for the 2003 Dodge Viper for fender supports, windshield surrounds, and doors on a production basis as a mainstream process. Finally, Meridian has expended approximately \$900,000 of its own financial resources on development directly related to the work to be performed under the subcontract.

Meridian has agreed to the standard DOE waiver terms and conditions, including march-in rights, background patent provisions, retention by the government of a license, preference for U.S. industry and U.S. Competitiveness clauses.

Meridian agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States, unless Meridian can show to the satisfaction of DOE that it is not commercially feasible to do so. In the event DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. Meridian further agrees to make the above condition binding on any assignee or licensee or any entity otherwise acquiring rights to any waived invention, including subsequent assignees or licensees. Should Meridian or other such

entity receiving rights in any waived invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by DOE.

Granting of the waiver should have little effect on competition and market concentration. The technology has not been commercially demonstrated and must compete with already existing technologies.

Granting of the requested waiver should serve as encouragement to other DOE contractors and subcontractors that significant cost sharing will be recognized as an acceptable consideration for granting greater rights in Subject Inventions.

In view of the acceptable level of cost sharing by Meridian and the objectives and considerations set forth in 10 CFR 784.4, all of which have been considered, it is recommended that the requested waiver for worldwide rights be granted.

Michael P. Holgren

*for* Emily G. Schneider  
Assistant Chief Counsel for  
Intellectual Property

Date: 4/19/04

Based on the foregoing Statement of Considerations and the representations in the attached Waiver Petition, it is determined that the interest of the United States and the general public will best be served by a waiver of U.S. and foreign patent rights, and therefore, the waiver is granted. This waiver shall not apply to a modification or extension of the cost-shared subcontract where, through such a modification or extension, the purpose, scope or cost of the subcontract has been substantially altered.

CONCURRENCE:

Dr. Sidney Diamond

Sidney Diamond  
Program Manager  
Office of Heavy Vehicle Technologies

Date: 5/10/04

APPROVAL:

Paul A. Gottlieb

Paul A. Gottlieb  
Assistant General Counsel for Technology  
Transfer and  
Intellectual Property

Date: 5-10-04